

**MTSA Regulations found at 33 CFR Subchapter H**  
**Part 101 Maritime Security--General**

**"The information in this document is for use as an aid to interpretation. Should anything in this document be in conflict with 33 CFR Subchapter H or CG policy, then Subchapter H and the CG policy determinations control."**

**Q. What is a Transportation Security Incident?**

**Ans:** A transportation security incident means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area. See 33 CFR 101.105.

**Q. As an owner or operator of a marine transportation system entity, do I have any special reporting obligations associated with maritime security?**

**Ans.** An owner or operator of a marine transportation system entity, required to have a security plan under part 104, 105, or 106 of 33 CFR Subchapter H, is required without delay, to report activities that may result in a transportation security incident to the National Response Center at 1-800-424-8802, direct telephone at 202-267-2675, fax at 202-267-2165, TDD at 202-267-4477, or by Email to [lst-nrcinfo@comdt.uscg.mil](mailto:lst-nrcinfo@comdt.uscg.mil). You are also required to report any breaches of security to the National Response Center and to report a TSI to the local COTP and cognizant District Commander without delay. See 33 CFR 101.305.

**Q: What is a Maritime Security (MARSEC) Directive?**

**Ans.** A Maritime Security (MARSEC) Directive is an instruction issued by the Commandant of the Coast Guard, or his delegate, mandating specific security measures for vessels and facilities that may be involved in a transportation security incident. MARSEC levels advise the maritime community and the public of the level of risk and are set to reflect the prevailing threat environment to the marine elements of the national transportation system, including ports, vessels, facilities, and critical infrastructure located on or adjacent to waters subject to the jurisdiction of the U.S. See 33 CFR 101.105.

**Q. What are the different MARSEC levels? What specific protective measures are required at each MARSEC level?**

**Ans:** There are three MARSEC levels. **MARSEC Level 1** means that minimum appropriate protective security measures shall be maintained at all times. (Aligns with blue, green, and yellow on the Department of Homeland Security (DHS) system.) **MARSEC Level 2** means that appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a transportation security incident. (Aligns with orange on the DHS system.) **MARSEC Level 3** means that further specific protective security measures shall be maintained for a limited period of time when a

transportation security incident is probable or imminent, although it may not be possible to identify the specific target. (Aligns with red on the DHS system.) See 33 CFR 101.105.

Specific protective measures required at each MARSEC level are detailed in various Sections of the Maritime Security Regulations. See 33 CFR Part 103--Area Maritime Security, 33 CFR Part 104--Vessels, 33 CFR Part 105--Facilities, 33 CFR Part 106--Outer Continental Shelf Facilities.

**Q. What is a Declaration of Security (DoS)? Who must complete a DoS?**

**Ans:** An agreement reached between a vessel and a facility, or between vessels in the case of a vessel-to-vessel activity, as to the respective security measures each must undertake during a specific vessel-to-facility interface, during a series of interfaces between the vessel and the facility, or during a vessel-to-vessel activity. See 33 CFR 101.105, SOLAS Chapter XI-2, Regulation 10, and the ISPS Code.

Details as to who must complete a DoS, when a DoS must be completed, and how long a DoS must be retained are included in parts 104, 105, and 106 of Subchapter H of 33 CFR. A DoS must, at a minimum, include the information found in the ISPS Code, part B, appendix 1. All vessels and facilities required to comply with parts 104, 105, and 106 must, at a minimum, comply with the DoS requirements of the MARSEC Level set for the port.

**Q. Is there a standard format available to assist in creating a DoS?**

**Ans:** There are two enclosures to Navigation and Vessel Inspection Circular (NVIC) # 03-03, CH-1 that provide guidance in the creation of a DoS. Enclosure (9) contains a sample DoS. Enclosure 11, addendum (2) contains a DoS applicability decision tool as an aid in determining the requirements for completing a DoS for the variations in types of vessel/facility or vessel/vessel interfaces at all MARSEC Levels. NVIC # 03-03, CH-1 can be found at <http://www.uscg.mil/hq/g-m/mp/nvic.html>.

**Q. What is the applicability of a DoS at different MARSEC Levels?**

**Ans:** **At all MARSEC Levels:** All unmanned vessels to which 33 CFR Part 104 applies are *not* required to complete a DoS. Other provisions of the regulations require owner and operators of unmanned barges to take into account the secure transfer of unmanned vessels from towing vessel to facilities. An unmanned barge remains unmanned regardless of tankermen or towing vessel crew working aboard the vessel.

**MARSEC Level 1:** Only cruise ships (as defined by 33 CFR 101.105) and manned vessels carrying CDCs (as defined by 33 CFR 101.105) are required to complete a DoS *if* there is a "vessel-to-vessel activity" or a "vessel-to-facility interface" (as defined by 33

CFR 101.105). However, if there are no actions that meet the definitions of “vessel-to-vessel activity” or a “vessel-to-facility interface”, then no DoS is required.

**MARSEC Levels 2 and 3:** All manned vessels to which 33 CFR Part 104 applies are required to complete a DoS *if* there is a “vessel-to-vessel activity” or a “vessel-to-facility interface” (as defined by 33 CFR 101.105). This would include passenger barges, permissively manned barges and uninspected towing vessels regardless of whether they are towing. However, if there are no actions that meet the definitions of “vessel-to-vessel activity” or a “vessel-to-facility interface”, then a DoS is not required, i.e., if the vessel simply moors at the facility, but there is no movement of persons, cargo, vessel stores, or there are no port services to or from the vessel being provided, a DoS is not required. Dropping off or picking up a barge at a facility does not constitute a “vessel-to-facility interface”.

**Q. What identification procedures will Coast Guard personnel follow when accessing commercial vessels and waterfront facilities?**

**Ans:** Access control is the cornerstone of the new security regime. Due to the new maritime security requirements of the International Ship and Port Facility Security (ISPS) Code and the Maritime Transportation Security Act (MTSA) of 2002, industry must fully enact a series of new security procedures under penalty of potentially serious civil and criminal sanctions, operational controls and economic consequences. Recognizing that security is a shared responsibility, with both the private and public sectors playing a significant role in this new global maritime security regime, law enforcement personnel will utilize the guidance found in CG Policy Advisory # 30-04 when attempting to access a commercial vessel or facility when performing duties in the normal course of business. See 33 CFR 101.515 (a)(1)-(4) and CG Policy Advisory # 30-04 can be found at <http://www.uscg.mil/hq/g-m/mp/mtsa.shtml>.

These procedures shall not apply to law enforcement officers accessing vessels or facilities during emergencies or exigent circumstances in the performance of their duties.

**Q. What is the effective date(s) of compliance for the MTSA-ISPS security measures?**

**Ans.** The MTSA security measures became effective on 1 July 2004. This is consistent with the entry into force of the changes to SOLAS and the ISPS Code requirements. See 33 CFR 104.115, 105.115, & 106.110.

**Q. What is meant by the term Public Access Facility? Are special security measures required?**

**Ans.** In general, public access facility means a facility that is used by the public primarily for purposes such as recreation, entertainment, retail, or tourism, and not for receiving vessels subject to 33 CFR Part 104. See 33 CFR 101.105--Definitions.

**Q. How does a Public Access Facility (PAF) owner or operator apply for an exemption from the regulations as promulgated per 33 CFR 105.110 (d)?**

**Ans.** Guidance in the enclosures to CG Policy Advisory #24-04 provide instructions for CG COTPs and facility owners or operators regarding application, review, and granting of Public Access Facility (PAF) exemptions per 33 CFR 105.110(d). Designation of a PAF does not constitute total exemption of 33 CFR Part 105. To ensure national consistency, COTPs will incorporate this guidance when considering exemption requests. CG Policy Advisory # 24-04 can be found at <http://www.uscg.mil/hq/g-m/mp/mtsa.shtml>.

**Q. What is a “public access area?”**

**Ans.** A facility serving ferries or passenger vessels certificated to carry more than 150 passengers, other than cruise ships, may designate an area within the facility as a public access area. A public access area is a defined space within a facility that is open to all persons and provides pedestrian access through the facility from public thoroughfares to the vessel. See 33 CFR 105.106, 33 CFR 105.110 (d), and CG Policy Advisory #24-04 found at <http://www.uscg.mil/hq/g-m/mp/mtsa.shtml>.

**Q. What is the penalty for non-compliance with the MTSA-ISPS security measures?**

**Ans.** Violation of any order or other requirement imposed under section 101.405 of 33 CFR Subchapter H is punishable by the civil and criminal penalties prescribed in 33 U.S.C. 1232 or 50 U.S.C. 192, as appropriate. As provided in 46 U.S.C. 70117, any person who does not comply with any other applicable requirement under this Subchapter, including a Maritime Security Directive, shall be liable to the U.S. for a civil penalty of not more than \$25,000 for each violation. See 33 CFR 101.415 Penalties.